

DOCKET NO. 94-718-C - ORDER NO. 95-961 ✓
APRIL 20, 1995

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the Application of Southern Pacific Telecommunications Company (SP Telecom or the Company) requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a provider of intrastate telecommunications services in the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1993) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed SP Telecom to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of SP Telecom's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. SP Telecom complied with this instruction and provided the Commission

with proof of publication of the Notice of Filing. Petitions to Intervene were filed by the Consumer Advocate for the State of South Carolina (the Consumer Advocate), Southern Bell Telephone and Telegraph Company (Southern Bell), the South Carolina Telephone Association (SCTA), and the South Carolina Telephone Coalition (SCTC).

Discussions between SP Telecom and the Consumer Advocate led SP Telecom to agree to certain amendments to its proposed tariff. Subsequently, the Consumer Advocate informed the Commission that it was satisfied that SP Telecom's offering was consistent with other resellers approved by the Commission and that the Consumer Advocate would not participate in the scheduled hearing in this Docket.

A public hearing was commenced on April 11, 1995, at 11:00 a.m., in the Commission's Hearing Room. The Honorable Rudolph Mitchell, Chairman, presided. SP Telecom was represented by B. Craig Collins, Esquire; Margaret M. Fox, Esquire, represented the SCTC; and Florence P. Belser, Staff Counsel, represented the Commission Staff.

At the beginning of the hearing, counsel for SP Telecom submitted three stipulations for Commission approval (Hearing Exhibit No. 1). The stipulations were between Southern Bell and SP Telecom, the SCTC and SP Telecom, and the SCTA and SP Telecom. The stipulation between Southern Bell and SP Telecom provides as follows:

- (1) Any grant of authority should clearly be for interLATA services and such intraLATA services as contemplated by PSC Order No. 93-462, dated June 3, 1993.

- (2) Southern Pacific Telecommunications Company represents that the services for which it seeks authority through this Application are not intended to be used to complete local calls. Southern Pacific Telecommunications Company agrees that it is not seeking authority in this docket to authorize it to complete local calls. Southern Pacific Telecommunications Company will not market or advertise its services as a method of completing local calls.
- (3) All operator services provided will be only for interLATA calls and any "0+" or "0-" intraLATA calls will be handed off to the LEC.
- (4) Southern Pacific Telecommunications Company agrees that all directory assistance services shall be provided by the applicable LEC in accordance with PSC Order No. 86-633. However, Southern Pacific Telecommunications Company may apply to the Commission for authority to provide such services, if such authority is granted to any other IXC or reseller.
- (5) Nothing in 1, 2, 3, or 4 above shall prohibit Southern Pacific Telecommunications Company from offering any services authorized for resale by tariffs of facility based carriers approved by the Commission.

The stipulations to which SP Telecom agreed with the SCTC and SCTA are identical and provide as follows:

- (1) Any grant of authority in this docket should clearly be for interLATA services and only such intraLATA services as contemplated by PSC Order No. 93-462, dated June 3, 1993.
- (2) SP Telecom represents that it is not seeking authority in this docket to complete local calls and that the services for which it seeks authority are not intended to be used to complete local calls. SP Telecom will not market or advertise its services as a method of completing local calls.
- (3) SP Telecom will provide operator services only for interLATA calls. All "0+" and "0-" intraLATA calls will be handed off to the local exchange carrier (LEC).

- (4) SP Telecom agrees that all directory assistance services shall be provided by the applicable LEC in accordance with PSC Order No. 86-633. However, SP Telecom may apply to the Commission for authority to provide such services if such authority is granted to any other IXC or reseller.
- (5) SP Telecom does not seek authority to provide competitive access services in this docket. However, this does not preclude SP Telecom from seeking such authority in a separate application in the future.
- (6) Nothing in the above paragraphs shall prohibit SP Telecom from offering any services authorized for resale by tariffs of facility-based carriers approved by the Commission.

In support of its Application, SP Telecom presented the testimony of Timothy D. Forster, Manager of Operations for SP Telecom. Mr. Forster explained the Company's request for authority to provide interexchange telecommunications services in South Carolina as a non-facilities based reseller. Mr. Forster described the Company's services, its managerial, technological, and financial resources, and its marketing procedures. Mr. Forster stated that SP Telecom will provide its services in compliance with the Commission's rules and regulations.

After full consideration of the applicable law, the Company's Application, the evidence presented by the Company and the Commission Staff, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. SP Telecom is incorporated under the laws of the State of Delaware, and has received a Certificate of Authority to Transact

Business as a Foreign Corporation in the State of South Carolina.

2. SP Telecom will operate as a non-facilities based reseller of interexchange services and wishes to do so in South Carolina.

3. SP Telecom has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to SP Telecom to provide intrastate interLATA service and to originate and terminate toll traffic in the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Services (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission accepts and approves the stipulations between SP Telecom and Southern Bell, between SP Telecom and the SCTC, and between SP Telecom and the SCTA.

3. The Commission adopts a rate design for SP Telecom for its resale services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

4. SP Telecom shall not adjust its rates below the approved

maximum level without notice to the Commission and to the public. SP Telecom shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1994).

5. SP Telecom is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

6. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if they so desire.

7. SP Telecom shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If SP Telecom changes underlying carriers, it shall notify the Commission in writing.

8. With regard to the origination and the termination of toll traffic in the same LATA, SP Telecom shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).

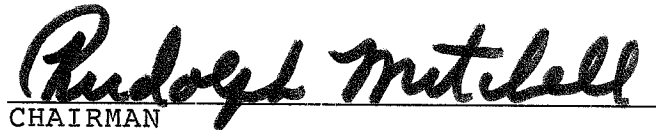
9. SP Telecom shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

10. SP Telecom shall file its revised tariff and accompanying price list reflecting the findings herein and its agreed upon tariff amendments within thirty (30) days of the date of this Order. The revised tariff shall be consistent with the Commission's Rules and Regulations. Further, the tariff shall be filed with the Commission in a loose-leaf binder.

11. SP Telecom shall file with the Commission quarterly financial reports consistent with the form required to support its Application (i.e. balance sheet, income statement, and any associated auditor's or accountant's notes). If SP Telecom's quarterly financial reports reflect the same trend that was evident at the time of certification for two consecutive quarters (i.e. weak financial performance by the Company), the Commission may require SP Telecom to appear before it for further consideration. At such time as the quarterly filings indicate a strengthening or profitable financial performance, the Commission may reduce the filing requirement.

12. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


CHAIRMAN

ATTEST:


Executive Director

(SEAL)

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ATTACHMENT A

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS
FOR INTEREXCHANGE COMPANIES AND AOS'S

COMPANY NAME

FEI NO.

ADDRESS

CITY, STATE, ZIP CODE

PHONE NUMBER

(1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR 12
MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.

* THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION
WORK IN PROGRESS, ACCUMULATED DEFERRED INCOME TAX,
CONTRIBUTIONS IN AID OF CONSTRUCTION AND CUSTOMER DEPOSITS.

(4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR
ENDING _____.

* THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION
PAYABLE), PREFERRED STOCK AND COMMON EQUITY.

(5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE
AMOUNT OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS
WELL AS METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT
(SEE #3 ABOVE).

SIGNATURE

NAME (PLEASE TYPE OF PRINT)

TITLE